



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/723,172

11/26/2003

James A. McEwan

HOET-16

5747

52450

7590

07/31/2009

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

EXAMINER

TRIEU, THAI BA

ART UNIT

PAPER NUMBER

3748

MAIL DATE

DELIVERY MODE

07/31/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10723172	11/26/03	MCEWAN, JAMES A.	HOET-16

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

EXAMINER

THAI BA TRIEU

ART UNIT	PAPER
----------	-------

3748	20090728
------	----------

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

1. The Examiner's Answer of December 01, 2006 is vacated.
2. The Supplemental Examiner's Answer of April 19, 2007 is also vacated.
3. In the Examiner's Answer mailed on December 01, 2006, the examiner inadvertently omitted the rejection of Claim 1 under the judicially created doctrine of obviousness-type double patenting. Accordingly, this Examiner's Answer addresses the rejection of claim 1. In addition, the Examiner's Answer clearly identifies the grounds of rejection withdrawn by the examiner.
4. On April 23, 2007, Appellant has filed an "Agreement to End Appeal and Reopen Prosecution" so that claims 14-20 can be allowed, and claims 2-4 and 11-13 can be allowed once rewritten in independent form to include the limitations of the base and any intervening claims, is acknowledged by the examiner.
5. On June 27, 2008, Appellant filed a Miscellaneous Letter that Appellant intended to maintain the pending appeal. However, this Letter was missing in the official records of the PTO. This Letter was resubmitted on January 23, 2009 and includes copies of: (1) the "Miscellaneous Letter"; (2) the Transmittal Form; and (3) the self-addressed, stamped postcard.

The resubmitted Letter on January 23, 2009, of Appellant who has wanted to maintain the pending appeal is acknowledged by the examiner.

/Thai-Ba Trieu/
Primary Examiner, Art Unit: 3748
July 28, 2009